

REFORM TO THE INFONAVIT LAW

MARCH 2025

Executive Summary:

- On February 21, 2025, the "Decree amending, adding to, and repealing various provisions of the Law of the National Workers' Housing Fund Institute ("LINFONAVIT") and the Federal Labor Law, regarding socially oriented housing," was published in the Official Gazette of the Federation. These amendments entered into force on February 22, 2025. (https://www.dof.gob.mx/nota_detalle.php?codigo=5749909&fecha=21/02/2025#gsc.tab=0)

As relevant aspects, the reform modifies INFONAVIT's faculties, strengthening the oversight and supervision of the administration and resource control bodies, allowing it to provide social housing (leasing) and construct housing through a subsidiary company.

Additionally, the employer's obligation concerning how to deduct their employees' contributions to repay loans granted by INFONAVIT in cases of absences or disabilities is modified.

Before this reform, employers' obligations to pay contributions to INFONAVIT and to deduct salaries for repaying loans granted to employees were suspended due to absences or disabilities.

The decree modified the penultimate paragraph of Article 29 of the LINFONAVIT, establishing that the employer's obligation, defined in Section III of the aforementioned article, to deduct salaries for covering loans granted by INFONAVIT, will not be suspended due to employees' absences or disabilities.

Initially, there was a debate about whether this employer's obligation should be interpreted as the employer's duty to pay the employees' INFONAVIT credits during periods of absence or disabilities.

However, we believe that the amendment should not be interpreted as requiring employers to pay, from their own resources, employees' credits during absences or disabilities. Although the employer's obligation to make deductions will not be suspended, this requirement consists of withholding and depositing deductions from their salaries. Therefore, compliance is subject to the employees earning a salary.

Regardless of whether an employee has any absences or disabilities during the reported two-month period if s/he earned salary, the employer must deduct the entire installment or fixed amount notified by INFONAVIT through the deduction withholding notice, without making any proportional adjustment based on the number of days worked.

In this regard, if the employee did not earn any salary during the two-month period, the employer must report the impossibility of making the deductions, through the employer clarifications provided on the INFONAVIT's portal, under reason 360 ("worker with a high discount factor, does not earn the minimum wage, and does not cover the amortization amount").

This interpretation is confirmed by the criteria published by the INFONAVIT Large Contributor Service Department, and available through the INFONAVIT's portal, which states that the employer will have no obligation to cover amounts that could not be deducted.

INFONAVIT is determining the deadline for complying with this new obligation. Therefore, we suggest reviewing constantly INFONAVIT's publications so employers can make the needed changes to their payroll systems and comply with this new guideline.

If INFONAVIT's position changes to the detriment of employers, they may file an indirect amparo lawsuit against the amendment to the aforementioned article, when the new provision materializes in an impact on the employer.

Francisco Udave
Partner
fudave@s-s.mx

Alejandro Valadez
Associate
alejandro.valadez@s-s.mx